



Instructions for Form IT-2663

IT-2663-I

Application for Certification for Recording of Deed and Nonresident Estimated Income Tax Payment Voucher

General information

Effective for sales or transfers of a fee simple interest in real property on or after September 1, 2003, nonresident individuals, estates, and trusts are required to estimate the personal income tax liability on the gain, if any, from the sale or transfer of certain real property located in New York State. Unless the transfer is exempt as explained below, you must use Form IT-2663, *Application for Certification for Recording of Deed and Nonresident Estimated Income Tax Payment Voucher*, to compute the gain (or loss) and pay the full amount of estimated tax, if applicable. After Form IT-2663 and full payment of estimated personal income tax due (if applicable) are received, the Tax Department will return a stamped Part IV (certification) to the transferor/seller. This stamped certification must be presented to the recording officer at the time the deed for the property is recorded. Use 2003 Form IT-2663 for sales or transfers of real property that occur on or before December 31, 2003.

Nonresident individuals, estates, and trusts will take into account the amount of estimated tax paid with Form IT-2663 when they file their 2003 New York State income tax return. Any tax refund that is due can be claimed at that time. Estimated tax payments made with Form IT-2663 cannot be refunded prior to the filing of an income tax return.

The requirement for payment of estimated tax under section 663 of the Tax Law does not apply to individuals, estates, or trusts who are residents of New York State at the time of the sale or transfer. Additionally, the requirement may not apply to certain sales or transfers of real property even if the individual, estate, or trust is a nonresident at the time of the sale or transfer (section 663(d) of the Tax Law). See *Exempt sales or transfers*, below.

New York State Form TP-584 (7/03), *Combined Real Estate Transfer Tax Return, Credit Line Mortgage Certificate, and Certification of Exemption from the Payment of Estimated Personal Income Tax*, Schedule D, must be completed for sales or transfers of property by New York State residents and nonresidents claiming exemption from the payment of estimated personal income tax under section 663 of the Tax Law. For more information, see Form TP-584 (7/03) and its instructions.

Note: Any deed for a fee simple interest in real property by an individual, estate, or trust **will not be** recorded by any recording officer, unless **each** transferor/seller listed as a grantor/transferor on Form TP-584, Schedule A (or an attachment to Form TP-584) has signed Form TP-584, Schedule D **or** presents to the recording officer Form IT-2663, Part IV (certification) stamped by the Tax Department.

Exempt sales or transfers

A nonresident is not required to file Form IT-2663 if any of the following apply:

- The property being sold or transferred is used **exclusively** as the principal residence of the transferor/seller within the meaning of section 121 of the Internal Revenue Code (IRC) (Tax Law section 663(d)(1)). Section 121 of the IRC relates to the federal income tax exclusion of gain on the sale of a principal residence.

If the property is not used exclusively as the principal residence of the transferor/seller, see *Property used in part as a principal residence* below.

Note: Property used exclusively as the principal residence of the transferor/seller qualifies for the exemption even if part of the gain is not excluded under section 121 of the IRC because the gain exceeds the amount of the exclusion provided for in that section.

- The *transferor/seller* is a mortgagor conveying the mortgaged property to a mortgagee in foreclosure or in lieu of foreclosure with no additional consideration (Tax Law section 663(d)(2)).
- The *transferor* or *transferee* is an agency or authority of the United States of America, an agency or authority of the state of New York, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, or a private mortgage insurance company (Tax Law section 663(d)(3)).

To claim exemption from the payment of estimated personal income tax under section 663(d) of the Tax Law, see Form TP-584, Schedule D.

Special rules

Real property situated partly within and partly outside New York State

When the real property being sold or transferred is situated partly within and partly outside of New York State, only the property situated inside New York State is subject to the requirements of section 663 of the Tax Law.

Property used in part as a principal residence

If a portion of the real property being sold or transferred qualifies as your principal residence and a portion of the property was used for any other purpose, the payment of estimated personal income tax is required on the gain allocable to the portion of the property that does **not** qualify as your principal residence.

To exclude the gain on the portion of the property used as your principal residence, you generally must have owned and lived in the property as your main home for at least two years during the five-year period ending on the date of the sale or transfer.

Method of allocation — For purposes of determining the amount of gain allocable to the portion of the property used as your principal residence and the portion used for any other purpose, you must allocate the basis and the amount realized between the portions using the same method of allocation as used for federal personal income tax purposes. (See Form IT-2663, page 2, Worksheet for Part II, line 18.)

Installment sales

You are required to compute the total gain, if any, on the sale of the real property. However, you pay estimated personal income tax only on that portion of the gain that will be reported on your 2003 federal income tax return.

For payments of estimated income tax due on installment payments received in tax years after 2003, you must use Form IT-2105, *Estimated Income Tax Payment Voucher*. For more information, see Form IT-2105 and the instructions for Form IT-2105.

Estates and trusts

Estates and trusts are required to estimate the income tax due on the entire gain, if any, on the sale or transfer of real property, without regard for any distributions of the gain to beneficiaries that may occur during the tax year of the sale.

When fiduciaries file the estate's or trust's income tax return for the year, they may elect to have any portion of estimated tax payments allocated to any of the beneficiaries. Fiduciaries making this election must file Form IT-205-T, *Allocation of Estimated Tax Payments to Beneficiaries*, to show the allocation of any estimated tax payment among the beneficiaries. See the instructions, for Form IT-205-T for information about how to file and when to file Form IT-205-T.

Definitions

Transferor/seller means the individual, estate, or trust listed as a grantor/transferor on Form TP-584, Schedule A (or an attachment to Form TP-584) making the sale or transfer of a fee simple interest in real property.

Sale or transfer of real property means the change of ownership of a fee simple interest in real property by any method.

Principal residence means your main home within the meaning of section 121 of the IRC for which you are allowed to exclude the gain for federal income tax purposes. Usually the home you live in most of the time is your main home and can be, but is not limited to: a house, houseboat, mobile home, cooperative apartment, or condominium.

How and where to file

If you are mailing the forms to the Tax Department, you should allow the Tax Department three business days from the **receipt** of your application to process and return Part IV (certification) to the transferor/seller.

Do not separate Form IT-2663 from the certification or voucher. You may file Form IT-2663 in one of the following ways:

Mail the entire completed Form IT-2663 and Form IT-2663-V with payment, if applicable, to:

**NYS INCOME TAX
PO BOX 5800
ALBANY NY 12205-0800**

Private delivery service

If you choose, you may use a private delivery service, instead of the U.S. Postal Service, to file this application and pay tax (if applicable). However, if, at a later date, you need to establish the date you filed your return or paid your tax, you cannot use the date recorded by a private delivery service **unless** you used a delivery service that has been designated by the U.S. Secretary of the Treasury or the Commissioner of Taxation and Finance. (Currently designated delivery services are listed in Publication 55, *Designated Private Delivery Services*. See *Need help?* on page 4 of these instructions for information on ordering forms and publications.) If you have used a designated private delivery service and need to establish the date you filed your application, contact that private delivery service for instructions on how to obtain written proof of the date your return was given to the delivery service for delivery. If you use **any** private delivery service, whether it is a designated service or not, address your return to: NYS Tax Department, Estimated Tax Unit, Room 200 Bldg 8, W A Harriman Campus, Albany NY 12227.

You should allow the Tax Department three business days from the **receipt** of your application to process and return Part IV (certification) to the transferor/seller or designated representative.

Return private delivery service

If you would like Part IV (certification) returned to you (or your designated representative) via a private delivery service, you **must** use one of the delivery services listed in Publication 55, *Designated Private Delivery Services*. This publication is available on the Tax Department's Web site (www.nystax.gov) or by calling 1 800 462-8100.

You will need to provide an air bill indicating your express service corporate account number. Please contact the private delivery service you will be using for their requirements with regard to return delivery.

Walk-in certification

You may also obtain a stamped Part IV (certification) by bringing a completed Form IT-2663 and Form IT-2663-V with full payment of estimated tax, if applicable, to one of the Tax Department's offices. See Form IT-2663, page 4 for a list of office locations and business hours.

Note: You cannot fax Form IT-2663 to the Tax Department for processing.

Line instructions for Form IT-2663

A separate Form IT-2663 must be filed by a nonresident for each sale or transfer of real property in New York State, unless the nonresident transferor/seller is exempt from the requirement to pay estimated tax as provided for under section 663(d) of the Tax Law (see Form TP-584, Schedule D).

Multiple transferor/sellers

If there is more than one nonresident transferor/seller (as listed on Form TP-584 or an attachment for Form TP-584) required to file Form IT-2663, each transferor/seller must complete and submit a separate Form IT-2663. If a payment of estimated personal income tax is required, each Form IT-2663 must have a separate check. Married couples who are nonresident transferors/sellers, and who transfer or sell their interest in New York State real property, may file one Form IT-2663 and send one check.

Item A

Check the applicable box to indicate whether the transferor/seller is an individual, estate, or trust. If the transferor/seller is a revocable living trust, or any other trust in which an individual is treated as the owner of the trust, check the box for an individual. For all other trusts and estates, check the box for trust or estate.

Item B

If you are reporting the sale or transfer of real property as an installment sale for federal income tax purposes (you are using federal Form 6252, *Installment Sale Income*, to report the sale), check the **Yes** box on item B. Give the duration of the installment agreement in months if the duration of the agreement is for 12 months or less or in years if the duration of the agreement is for more than 12 months.

Item C

If only a **portion** of the real property being sold or transferred qualifies as your principal residence for federal income tax purposes, check this box.

Part I — Sale or transfer information

Print your full name, address, and social security number. For estates and trusts, enter the employer identification number. If your mailing address is a PO box, you must also include your street address. If you are married and filing one Form IT-2663, print your spouse's name and social security number in the space provided.

Location and description of property transferred

Enter a description of the property (such as apartment building or warehouse), the address, including the county, and the tax map number if known.

Date of sale or transfer

Enter the date of the sale or transfer. If you are filing Form IT-2663 prior to the actual sale or transfer of real property, you may use an anticipated date of sale. For an installment sale, enter the payment date of the first installment.

Part II — Estimated tax information

You must complete the worksheet on page 2 of Form IT-2663 before completing this part.

If you will be filing Form IT-2663 prior to the actual sale or transfer of the real property, any figures needed to compute the gain or loss on the transfer that have not yet been fixed or determined may be estimated based on the information available at the time of filing Form IT-2663.

Line 1

Enter the amount from Worksheet for Part II, line 15.

Line 2

Enter the amount from Worksheet for Part II, line 17. Enter the **total** amount of gain or loss on the sale or transfer. If the sale or transfer of real property does not result in a gain or results in a loss, see Part III of Form IT-2663. Also complete Part IV (certification) and Form IT-2663-V on page 3 of Form IT-2663.

Line 3

Enter the amount of estimated tax due from Worksheet for Part II, line 20. Also, enter this amount on Form IT-2663-V, on page 3 of Form IT-2663. You **must** remit this amount to the Tax Department with this application. If there is no payment of estimated personal income tax due, enter "0" on this line, on line 20, and on Form IT-2663-V. In addition, complete Part III and Part IV (certification).

Part III — Nonpayment of estimated tax by a nonresident upon sale of real property

Check the applicable box to indicate the reason an estimated income tax payment is not being remitted with this application. You **must** complete Part IV (certification) and Form IT-2663-V on page 3 of Form IT-2663.

If the transferor/seller is a resident of New York State or if the property is exempt from the payment of estimated tax under section 663(d) of the Tax Law (see *Exempt sales or transfers* on the front page of these instructions), do not use Form IT-2663. You must complete Form TP-584, Schedule D.

Note: Although the payment of estimated tax may not be required upon the sale or transfer of New York State real property, the transferor/seller may still be required to file a New York State income tax return to report the sale or transfer.

For more information on filing requirements for nonresidents, see Publication 88, *General Tax Information for New York State Nonresidents and Part-Year Residents*, and Form IT-203, *Nonresident and Part-Year Resident Income Tax Return*, and the instructions for Form IT-203.

Signature

Form IT-2663 must be signed by the nonresident transferor/seller (an individual, a trustee, an executor, or other fiduciary of estate or trust). If you are married and filing one Form IT-2663, both spouses must sign in the space provided. In addition, Form IT-2663 may be signed by an authorized agent with a power of attorney (see Form POA-1, *Power of Attorney*).

Part IV — New York State Department of Taxation and Finance Certification for Recording of Deed

Do not detach the certification from Form IT-2663 or Form IT-2663-V. Enter the information exactly as it was entered on Form IT-2663, Part I and Part II. This certification must be completed and signed by the transferor/seller even if there is no payment of estimated personal income tax due.

If you want the Tax Department to return Part IV (certification) to **you**, do not complete the *Designated representative information* section.

Designated representative information

If you would like to authorize the Tax Department to return Part IV (certification) to a designated representative instead of you, complete this section. If you designate a representative, Part IV (certification) will be sent only to the representative; you will **not** be sent a copy or any notice that the certificate was issued.

No other tax information will be disclosed to the designated representative indicated on this certification. If you want the designated representative to have access to records involving your estimated tax account or income tax return(s) or to represent you before the Tax Department, you must file Form POA-1, *Power of Attorney*.

Fax authorization

The Tax Department will fax the certification to the transferor/seller **or** to the designated representative listed on the certificate. Check the box to indicate the recipient of the fax. (The Tax Department will not fax this certification to a recording officer.) Please give the complete fax number of the recipient in the space provided (including the area code). Also include the recipient's daytime telephone number in case there is a problem with the transmission.

Because the Tax Department does not have control over the transmission or delivery of faxes, a transferor/seller who requests a fax transmission agrees to absolve the Tax Department from liability for any violation of federal or state laws with regard to secrecy provisions.

If any information regarding the fax authorization is missing or illegible, the certification will not be faxed. Instead, it will be mailed to the transferor/seller (or designated representative if applicable).

Signature

The nonresident transferor/seller (an individual, a trustee, an executor, or other fiduciary of a trust or estate) must sign Part IV (certification). If you are married and filing one Form IT-2663, both spouses must sign in the space provided. In addition, Part IV (certification) may be signed by an authorized agent with a power of attorney (see Form POA-1, *Power of Attorney*).

Instructions for Form IT-2663-V

Do not detach Form IT-2663-V from Form IT-2663 or Part IV (certification). This voucher must be completed by the transferor/seller even if there is no payment of estimated personal income tax due.

For individuals, enter your social security number and enter the first three letters of your last name. Enter your full name, your spouse's full name if you are married and filing a joint return, and your address.

For estates and trusts, enter the employer identification number and the first three letters of the fiduciary name. If the fiduciary name begins with numbers, start with the first word and enter the first three letters.

Make sure that your name or the name of the estate or trust is spelled correctly. An individual should show the first name, middle initial, then last name (for example, John O. Smith). Your name or the name of the estate or trust **must** agree with the name on your New York State income tax return.

Enter the date of sale or transfer from Form IT-2663, Part I.

Enter the amount of estimated tax due from Form IT-2663, Part II, line 3. If zero, enter "0."

Print your social security number or employer identification number and **2003 IT-2663-V** on your payment. The Tax Department will not return a stamped Part IV (certification) to the transferor/seller or

designated representative unless the full payment of estimated tax as shown on Form IT-2663 is received. Make your check or money order payable to **NYS Income Tax**. Do not detach this voucher from the rest of the form.

Privacy notification

The Commissioner of Taxation and Finance may collect and maintain personal information pursuant to the New York State Tax Law, including but not limited to, sections 171, 171-a, 287, 308, 429, 475, 505, 697, 1096, 1142, and 1415 of that Law; and may require disclosure of social security numbers pursuant to 42 USC 405(c)(2)(C)(i).

This information will be used to determine and administer tax liabilities and, when authorized by law, for certain tax offset and exchange of tax information programs as well as for any other lawful purpose.

Information concerning quarterly wages paid to employees is provided to certain state agencies for purposes of fraud prevention, support enforcement, evaluation of the effectiveness of certain employment and training programs and other purposes authorized by law.

Failure to provide the required information may subject you to civil or criminal penalties, or both, under the Tax Law.

This information is maintained by the Director of Records Management and Data Entry, NYS Tax Department, W A Harriman Campus, Albany NY 12227; telephone 1 800 225-5829. From areas outside the United States and outside Canada, call (518) 485-6800.

Need help?



Internet access: www.nystax.gov

Access our Answer Center for answers to frequently-asked questions; check your refund status; check your estimated tax account; download forms, publications; get tax updates and other information.



Fax-on-demand forms: Forms are

available 24 hours a day,
7 days a week.

1 800 748-3676



Telephone assistance is available from 8:00 A.M. to 5:00 P.M. (eastern time), Monday through Friday.

Refund status: (electronically filed)	1 800 353-0708
(direct deposit)	1 800 321-3213
(all others)	1 800 443-3200

(Automated service for refund status is available 24 hours a day, 7 days a week.)

To order forms and publications: 1 800 462-8100

Personal Income Tax Information Center: 1 800 225-5829

From areas outside the U.S. and

outside Canada: (518) 485-6800



Hotline for the hearing and speech impaired: If you have access to a telecommunications device for the deaf (TDD), contact us at 1 800 634-2110. If you do not own a TDD, check with independent living centers or community action programs to find out where machines are available for public use.



Persons with disabilities: In compliance with the Americans with Disabilities Act, we will ensure that our lobbies, offices, meeting rooms, and other facilities are accessible to persons with disabilities. If you have questions about special accommodations for persons with disabilities, please call 1 800 225-5829.



If you need to write, address your letter to:

NYS TAX DEPARTMENT
PERSONAL INCOME TAX INFORMATION CENTER
W A HARRIMAN CAMPUS
ALBANY NY 12227